

AMENDED IN SENATE JUNE 7, 2006
AMENDED IN SENATE SEPTEMBER 8, 2005
AMENDED IN SENATE SEPTEMBER 6, 2005
AMENDED IN SENATE AUGUST 15, 2005
AMENDED IN SENATE JUNE 28, 2005
AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1665

Introduced by Assembly Member Laird

February 22, 2005

An act to amend Section 8521 of, to amend the heading of Part 4 (commencing with Section 8520) of Division 5 of, to add Sections 8327, 8523, and 8524 to, to add Article 8 (commencing with Section 8725) to Chapter 3 of, and to add Chapter 9 (commencing with Section 9110) and Chapter 10 (commencing with Section 9150) to, Part 4 of Division 5 of, the Water Code, relating to flood control, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 12657, 12878, 12878.1, 12878.21, 12878.22, and 12878.23 of, to add Sections 8306, 8327, 8590.3, 12585.11, and 12585.12 to, to add Article 8 (commencing with Section 8725) to Chapter 3 of, to add Chapter 5.5 (commencing with Section 8865) to, and to add Chapter 9 (commencing with Section 9110) to, Part 4 of Division 5 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1665, as amended, Laird. ~~Flood control.~~ Water resources.

(1) The Department of Water Resources (department) performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board (board), an agency established within the department, to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas. Existing law requires the board to establish and enforce standards for the maintenance and operation of, and to undertake other responsibilities with regard to, flood control works under its jurisdiction.

This bill would authorize the department to provide meals and other necessary support to any person engaged in emergency flood fight activities, as defined, on behalf of, or in cooperation with, the department. The bill would require the department, on or before December 31, 2007, to prepare a schedule for mapping areas at risk of flooding in the Sacramento River and San Joaquin River drainage. The bill would authorize the department to establish a program of mitigation banking for the activities of the board or the department and for the benefit of local districts in the discharge of specified flood control responsibilities. The bill would require the department, in consultation with the board, to prepare and submit to the Legislature one or more reports describing the history and engineering design of the facilities of the State Plan of Flood Control, as defined. The bill would require the department to prepare and periodically update a flood control system status report for the State Plan of Flood Control and to undertake a related inspection of specified levees. The bill would authorize a local agency responsible for maintaining a unit or portion of the State Plan of Flood Control to petition the board and the United States for decertification of a flood control facility as part of the State Plan of Flood Control.

This bill would authorize the board or the department to adopt plans and estimates of costs for extraordinary maintenance, as defined, on behalf of project levees, channels, and floodways, and to carry out those plans. The bill would authorize the board to levy special benefit assessments upon certain lands protected by the State Plan of Flood Control that the Legislature would find are specially benefited. The bill would require a separate special benefit assessment for extraordinary maintenance for lands in the Sacramento Valley and

a separate special benefit assessment for lands in the San Joaquin Valley. The bill would prohibit the aggregate amounts of assessments levied in each valley from exceeding specified amounts per year, not to commence before July 1, 2009, and would double the authorized limits on and after July 1, 2017. The bill would require the board to adopt regulations for establishing, allocating, and levying assessments pursuant to these provisions. The bill would require the county in which the assessed lands are located to collect, on behalf of the board, the amounts certified by the department to be raised pursuant to the levy of assessments.

The bill would require the department, on or before September 1, 2009, and on or before September 1 of each year thereafter, to provide written notice to each landowner whose property is determined to be within a levee flood protection zone, as defined. The bill would require the department to prepare, update, and maintain maps for levee flood protection zones.

The bill would require, on or before September 30 of each year, a local agency responsible for the operation and maintenance of a project levee, as defined, to prepare and submit to the department a specified report of information for inclusion in periodic flood management reports prepared by the department. The bill would require the department to prepare a report on project levees that are operated and maintained by each local agency using certain information. The bill would specify that a local agency responsible for the operation and maintenance of a project levee may propose to the board an upgrade of the project levee.

(2) Existing law authorizes, on a project-by-project basis, and in accordance with designated plans, state participation in federal flood control projects and specifies the degree of cooperation to be assumed by the state and local agencies in connection with those projects. Existing law, except as otherwise provided, requires the Reclamation Board to give assurances satisfactory to the Secretary of the Army that local cooperation as required by federal law will be furnished by the state in connection with described flood control projects.

This bill would authorize the department or the board, upon appropriation, to advance funds to the federal government or perform flood control and environmental restoration project planning, design, and construction in advance of the federal government and seek reimbursement or credit from the federal government for the cost of that work determined by the federal government to be eligible for

reimbursement or credit. The bill would authorize the department or the board to participate with the federal government or local agencies in the design of environmental enhancements associated with a federal flood control project and participate in the construction of environmental enhancements associated with a federal flood control project for which the state has authorized state participation. The bill would require the state to pay 50% of the nonfederal share of environmental enhancement.

The bill, except as specified, would prohibit the board from providing assurances for a project that increases the level of flood protection until all cities and counties that lie in whole or in part within the benefited area of that project have executed an agreement with the department or board whereby those cities and counties agree to be subject to joint liability and contribution when any action related to the project is brought against the state or a state agency.

(3) Existing law establishes procedures for the assumption of flood control maintenance and operation duties by the department in connection with the formation of a maintenance area on behalf of a federal flood control project unit. Under existing law, the department and the board are not required to form a maintenance area if neither agency has given the nonfederal assurances to the United States required for the project, except as otherwise provided for a project for which an application for the formation of the maintenance area has been submitted on or before July 1, 2003. Existing law prescribes requirements relating to the imposition of assessments on behalf of a maintenance area. Existing law requires the funds generated by the imposition of the assessments to be deposited in the Water Resources Revolving Fund and continuously appropriates those funds to pay the operation and maintenance costs of maintenance areas. Existing law provides for the dissolution of a maintenance area.

This bill would delete the provisions relating to the formation of a maintenance area for a project for which an application for the formation of a maintenance area has been submitted on or before July 1, 2003. The bill would prohibit the department from performing certain work in connection with the formation of a maintenance area requested by a local agency until the local agency requesting the formation of the maintenance area pays to the department an amount of money that reflects certain costs incurred by the department. The bill would make changes to the requirements relating to the imposition of assessments on behalf of a maintenance area by revising the

definition of the term “operation and maintenance costs” to include additional costs. By including additional costs paid in maintenance areas within the purposes for which funds are continuously appropriated from the Water Resources Revolving Fund, the bill would make an appropriation.

The bill would authorize the board or the department to form a maintenance area for a project unit, or any portion of a project unit. The bill would provide that, if a maintenance area is formed for a portion of a project unit, any remaining portion of the project unit not included in the maintenance area shall remain the responsibility of the local agency obligated to operate and maintain that unit. The bill would authorize the board and the department to consolidate maintenance areas that share a common boundary. The bill would prohibit the board and the department from dissolving a maintenance area unless the local agency benefited by the project enters into a specified agreement relating to liability.

By imposing duties on local public agencies and cities and counties in connection with the bill’s provisions, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(1) Existing law establishes the 7-member Reclamation Board in the department. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River, San Joaquin River, their tributaries, and related areas. Existing law requires the Reclamation Board to establish and enforce standards for the maintenance and operation of, and to undertake other responsibilities with regard to, flood control works under its jurisdiction.~~

~~This bill would rename the Reclamation Board the Central Valley Flood Management Board. The bill would require the Department of Water Resources, on or before March 31, 2006, to prepare a schedule for mapping areas at risk of flooding in the Sacramento and San Joaquin Rivers drainage, and, thereafter, to update the schedule~~

~~annually. The bill would require the board to prepare and submit to the Legislature one or more reports describing the history and engineering design of the facilities of the state plan of flood control, as defined.~~

~~The bill would require, on or before September 30 of each year, that a local agency responsible for the operation and maintenance of a project levee, as defined, prepare and submit to the board a specified report of information for inclusion in periodic flood management reports prepared by the board relating to the project levee. The bill would authorize a local agency responsible for the operation and maintenance of a levee that is not otherwise subject to that reporting requirement to voluntarily prepare and submit that report. The bill would require the board, on or before September 1, 2007, and on or before September 1 of each year thereafter, to provide a prescribed written notice to each landowner whose property is determined to be entirely or partially within a levee protection zone, as defined. The bill would require a county to annually provide to the board lists of names and addresses of property owners in a levee protection zone located in that county. The bill would specify that a local agency responsible for the operation and maintenance of a project levee may propose to the board a project levee upgrade. By establishing requirements for local public agencies and counties, the bill would impact a state-mandated local program.~~

~~The bill would require the board to prepare a flood control system status report for each facility of the state plan of flood control and to prepare a report on the project levees operated and maintained by each local agency, using certain information, to be made available to the public and identified entities. The bill would require the board to prepare, update, and maintain maps for levee protection zones.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~no~~-yes. Fiscal committee:
yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature hereby finds and declares all of*
2 *the following:*
- 3 (a) *The central valley of this state is experiencing*
4 *unprecedented development, resulting in the conversion of*
5 *historically agricultural lands and communities to densely*
6 *populated residential and urban centers.*
- 7 (b) *The Legislature recognizes that by their nature, levees,*
8 *which are earthen embankments typically founded on fluvial*
9 *deposits, cannot offer complete protection from flooding, but can*
10 *decrease its frequency.*
- 11 (c) *The Legislature recognizes that the level of flood*
12 *protection afforded rural and agricultural lands by the original*
13 *flood control system is not considered adequate to protect those*
14 *lands when developed for urban uses, and that a dichotomous*
15 *system of flood protection for urban and rural lands has*
16 *developed through many years of practice.*
- 17 (d) *The Legislature further recognizes that levees built to*
18 *reclaim and protect agricultural land may be inadequate to*
19 *protect urban development unless those levees are significantly*
20 *improved.*
- 21 (e) *Local agencies are primarily responsible for making land*
22 *use decisions in the state, and the Legislature intends that they*
23 *retain that lead role.*
- 24 (f) *Local agencies rely upon federal flood plain information*
25 *when approving developments, but the information available is*
26 *often out-of-date and the flood risk may be greater than that*
27 *indicated using available federal information.*
- 28 (g) *Floodplain management tools such as floodplain mapping,*
29 *the national flood insurance program, and the designated*
30 *floodway program, represent important supplemental activities*
31 *to educate the public about, and protect the public from, flood*
32 *hazards.*
- 33 (h) *It is necessary for the state to immediately undertake the*
34 *task of mapping flood plains and submitting up-to-date*
35 *information to the federal government so that the federal*

1 *National Flood Insurance Program maps reflect current and*
2 *accurate conditions. In this way, the public can be provided with*
3 *reliable information regarding flooding potential, and local*
4 *agencies can make informed land use and flood management*
5 *decisions so that the risk to life and property can be effectively*
6 *reduced.*

7 *(i) The Legislature recognizes that understanding the State*
8 *Plan of Flood Control can best be accomplished by having the*
9 *state, with assistance from local agencies, undertake*
10 *comprehensive studies of its history, purpose, and current*
11 *configuration, along with detailed studies of its shortcomings,*
12 *and that providing this information to the public will help ensure*
13 *public participation in wise land use decisionmaking.*

14 *(j) The Legislature also recognizes the difficulty in obtaining*
15 *necessary funds for levee maintenance and operations at both the*
16 *state and local levels.*

17 *(k) It is the intent of the Legislature to establish a stable*
18 *funding source at the state level for levee maintenance and*
19 *operations through the use of assessments to supplement both*
20 *local funds and appropriations from the General Fund.*

21 *SEC. 2. Section 8306 is added to the Water Code, to read:*

22 *8306. (a) Notwithstanding any other provision of law, the*
23 *department may provide meals and other necessary support to*
24 *any person, including, but not limited to, the employees of the*
25 *department, who is engaged in emergency flood fight activities*
26 *on behalf of, or in cooperation with, the department.*

27 *(b) For the purposes of this section, “emergency flood fight*
28 *activities” mean actions taken under emergency conditions to*
29 *maintain flood control features, the failure of which threaten to*
30 *destroy life, property, or resources.*

31 *SEC. 3. Section 8327 is added to the Water Code, to read:*

32 *8327. (a) On or before December 31, 2007, the department*
33 *shall prepare a schedule for mapping areas at risk of flooding in*
34 *the Sacramento River and San Joaquin River drainage.*

35 *(b) The department shall update the schedule annually and*
36 *shall include the status of mapping projects in progress and an*
37 *estimated time of completion. The schedule shall be based on the*
38 *present and expected future risk of flooding and associated*
39 *consequences.*

1 (c) *Maps prepared by the department shall meet requirements*
2 *for use by the flood hazard mapping program of the Federal*
3 *Emergency Management Agency.*

4 SEC. 4. *Section 8590.3 is added to the Water Code, to read:*

5 8590.3. (a) *The department may establish a program of*
6 *mitigation banking for the activities of the board or the*
7 *department under this part and for the benefit of local districts in*
8 *the discharge of their flood control responsibilities under this*
9 *part and the State Water Resources Law of 1945 (Chapter 1*
10 *(commencing with Section 12570) and Chapter 2 (commencing*
11 *with Section 12639) of Part 6 of Division 6).*

12 (b) *For the purposes of carrying out subdivision (a), the*
13 *department, in consultation with all appropriate state, local, and*
14 *federal agencies with jurisdiction over environmental protection*
15 *that are authorized to regulate and impose requirements upon*
16 *the flood control work performed under this part or the State*
17 *Water Resources Law of 1945 (Chapter 1 (commencing with*
18 *Section 12570) and Chapter 2 (commencing with Section 12639)*
19 *of Part 6 of Division 6), may establish a system of mitigation*
20 *banking by which mitigation credits may be acquired in advance*
21 *for flood control work to be performed by the board, the*
22 *department, or a local agency authorized to operate and*
23 *maintain facilities of the State Plan of Flood Control.*

24 SEC. 5. *Article 8 (commencing with Section 8725) is added to*
25 *Chapter 3 of Part 4 of Division 5 of the Water Code, to read:*

26
27 *Article 8. State Plan of Flood Control*
28

29 8725. *Unless the context requires otherwise, the definitions*
30 *set forth in this section govern the construction of this part.*

31 (a) *“Facilities of the State Plan of Flood Control” means the*
32 *levees, weirs, channels, and other features of the State Plan of*
33 *Flood Control.*

34 (b) *“Project levee” means any levee that is a part of the*
35 *facilities of the State Plan of Flood Control.*

36 (c) *“State Plan of Flood Control” means the state and federal*
37 *flood control works, lands, programs, plans, conditions, and*
38 *mode of maintenance and operations of the Sacramento River*
39 *Flood Control Project described in Section 8350, and of flood*
40 *control projects in the Sacramento River and San Joaquin River*

1 watersheds authorized pursuant to Article 2 (commencing with
2 Section 12648) of Chapter 2 of Part 6 of Division 6 for which the
3 board or the department has provided the assurances of
4 nonfederal cooperation to the United States, and those facilities
5 identified in Section 8361.

6 8726. (a) The department shall prepare and submit to the
7 Legislature one or more reports describing the history and
8 engineering design of the facilities of the State Plan of Flood
9 Control using available information that includes all of the
10 following:

11 (1) A description of the historical development of the State
12 Plan of Flood Control.

13 (2) An inventory and description of all facilities of the State
14 Plan of Flood Control, including information on the original
15 purpose, foundation investigations, and design and construction
16 of those facilities.

17 (3) The identification of maintaining agencies for specific
18 facilities.

19 (4) A description of the roles and responsibilities of federal,
20 state, and local agencies.

21 (5) A description of the purpose and limitations of the State
22 Plan of Flood Control.

23 (6) A description of all other relevant projects, programs, and
24 activities that, in the determination of the department, are a
25 material component of the State Plan of Flood Control.

26 (7) An examination to determine if the listing of facilities in
27 Section 8361 is properly inclusive or if additions or deletions are
28 appropriate, together with any revisions of roles and
29 responsibilities.

30 (b) On or before December 31, 2007, the department shall
31 advise the Legislature, in writing, as to the department's
32 schedule of implementation of subdivision (a).

33 (c) Before submitting any report to the Legislature, the
34 department shall submit that report to the board for its review
35 and comment.

36 8727. (a) A local agency responsible for maintaining a unit
37 or portion of the State Plan of Flood Control, at a public hearing
38 of the local agency, upon approval of the board, may submit a
39 petition to the board and the United States for decertification of
40 the flood control facility as a part of the State Plan of Flood

1 *Control. Not less than 90 days before the proposed submittal of*
2 *the petition, the local agency shall provide notice to the*
3 *department, the board, any affected county, any affected city, and*
4 *any affected levee district. The notice shall specify the reasons*
5 *for the proposed decertification and the local agency's plan for*
6 *the levee if the decertification is approved. The board may*
7 *approve the submittal of the petition at a public hearing if the*
8 *county board of supervisors of any county, and the city council of*
9 *any city, that receives protection from the levee provides written*
10 *approval for the submittal of the petition.*

11 *(b) The board may approve a petition for decertification*
12 *submitted in accordance with subdivision (a) if it determines that*
13 *other levees will not be adversely affected and that other*
14 *elements of the State Plan of Flood Control will not be adversely*
15 *affected, and that it is in the best interest of the state.*

16 *(c) The decertification shall be effective when both the board*
17 *and the United States have approved decertification.*

18 *SEC. 6. Chapter 5.5 (commencing with Section 8865) is*
19 *added to Part 4 of Division 5 of the Water Code, to read:*

20
21 *CHAPTER 5.5. MAINTENANCE OF PROJECT LEVEES*

22
23 *Article 1. General Provisions and Definitions*

24
25 *8865. (a) The Legislature finds and declares that there has*
26 *been disagreement about whether the state or local agencies are*
27 *responsible to pay for the repair of bank and levee erosion on*
28 *project levees.*

29 *(b) It is the intent of the Legislature that state funding and*
30 *assessments on lands benefited be utilized to pay these costs.*

31 *8865.2. The Legislature finds and declares all of the*
32 *following:*

33 *(a) Lands protected by the State Plan of Flood Control within*
34 *the Sacramento Valley are specially benefited by work performed*
35 *or managed by the state within the Sacramento Valley under*
36 *Section 8866.*

37 *(b) Lands protected by the State Plan of Flood Control within*
38 *the San Joaquin Valley are specially benefited by work*
39 *performed or managed by the state within the San Joaquin Valley*
40 *under Section 8866.*

1 (c) Lands protected by the State Plan of Flood Control as a
2 whole are specially benefited by all of the following:

3 (1) Notification pursuant to Section 9121.

4 (2) The preparation of the state report pursuant to Section
5 9141.

6 (3) The preparation and collection of assessments and the
7 undertaking of the work authorized by this chapter.

8 (d) Due to the systemic and interdependent nature and
9 function and systemwide benefit of the State Plan of Flood
10 Control to protect the lands protected by the State Plan of Flood
11 Control, an assessment may be properly and fairly levied upon
12 the lands protected by the State Plan of Flood Control for the
13 purposes described in subdivisions (a), (b), and (c).

14 8865.4. Lands that are being assessed by local agencies for
15 the operation and maintenance of a project levee by a local levee
16 district shall be deemed to be protected by the State Plan of
17 Flood Control, unless the department, based on evidence
18 provided to the department, determines that the lands are not
19 benefited by the State Plan of Flood Control.

20 8865.6. For the purpose of this chapter, “extraordinary
21 maintenance” means the repair of bank and levee erosion on
22 project levees, stability remediation of project levees, and
23 sediment removal from project channels and floodways.
24 “Extraordinary maintenance” does not include the repair or
25 maintenance of facilities identified in Section 8361.

26
27 Article 2. Authority to Undertake Extraordinary Maintenance

28
29 8866. The board or department may adopt plans and
30 estimates of costs for extraordinary maintenance and may carry
31 out those plans.

32 8866.2. (a) It is the intent of the Legislature that the costs of
33 maintenance and extraordinary maintenance performed by the
34 board or the department shall be paid for by funds raised by the
35 assessments levied under Article 3 (commencing with Section
36 8867), by appropriations from the General Fund, and by other
37 funding sources as appropriate.

38 (b) The board or department may have extraordinary
39 maintenance work performed by the local maintenance agency

1 *under contract with, and under the direction of, the board or the*
2 *department.*

3
4 *Article 3. Assessments to Support Extraordinary Maintenance*
5

6 8867. (a) *Notwithstanding Chapter 5 (commencing with*
7 *Section 8750), the board may levy special benefit assessments*
8 *upon lands protected by the State Plan of Flood Control for the*
9 *following:*

10 (1) *For preparation of plans for extraordinary maintenance*
11 *prepared in accordance with Article 2 (commencing with Section*
12 *8866).*

13 (2) *For the costs of extraordinary maintenance.*

14 (3) *For the costs of the state reports and of notices made to*
15 *landowners within the levee flood protection zone pursuant to*
16 *Article 2 (commencing with Section 9120) of Chapter 9.*

17 (4) *For the preparation of reports pursuant to Section 9141.*

18 (5) *For recovery of the costs of levying the assessment.*

19 (b) *There shall be a separate special benefit assessment for*
20 *extraordinary maintenance for lands in the Sacramento Valley*
21 *and a separate special benefit assessment for extraordinary*
22 *maintenance for lands in the San Joaquin Valley.*

23 (c) *The assessments for lands in the Sacramento Valley to be*
24 *levied in any fiscal year shall not be levied before July 1, 2009,*
25 *and shall not exceed an aggregate amount of ten million dollars*
26 *(\$10,000,000) per year.*

27 (d) *The assessments for lands in the Sacramento Valley to be*
28 *levied in any fiscal year on or after July 1, 2017, shall not exceed*
29 *an aggregate amount of twenty million dollars (\$20,000,000) per*
30 *year.*

31 (e) *The assessments for lands in the San Joaquin Valley to be*
32 *levied in any fiscal year shall not be levied before July 1, 2009,*
33 *and shall not exceed an aggregate amount of one million dollars*
34 *(\$1,000,000) per year.*

35 (f) *The assessments for lands in the San Joaquin Valley to be*
36 *levied in any fiscal year on or after July 1, 2017, shall not exceed*
37 *an aggregate amount of two million dollars (\$2,000,000) per*
38 *year.*

39 (g) *Assessments for the Sacramento Valley and the San*
40 *Joaquin Valley shall be accounted for separately.*

1 (h) Any unused funds shall be carried over for expenditure in
2 subsequent years.

3 (i) The assessment on an area shall be reduced by the amount
4 of funds that are expended by a local agency on extraordinary
5 maintenance within the area in the prior fiscal year, and are
6 documented by the local agency and approved by the
7 department.

8 (j) On or before February 1 of each year, each county shall
9 provide to the department or the board updated assessor's rolls
10 for those lands identified by the department or the board as
11 receiving protection from facilities of the State Plan of Flood
12 Control. The department or board shall use the updated
13 assessors' rolls to allocate assessments to all assessable lands in
14 the same manner, as if there were no county lines.

15 (k) Notwithstanding the requirements of Chapter 4.5
16 (commencing with Section 12878) of Part 6 of Division 6, the
17 department or board shall determine the total assessment to be
18 levied within each county and shall submit that assessment to
19 each affected county.

20 8867.2. A special benefit assessment for extraordinary
21 maintenance shall not be levied on lands protected by a discrete
22 levee if the local agency operating and maintaining the levee
23 does both of the following:

24 (a) Enters into an agreement with the board or the department
25 stating that the local agency will take responsibility for
26 extraordinary maintenance.

27 (b) Undertakes and performs the work in a manner determined
28 to be reasonable by the board.

29 8867.4. The board shall adopt regulations for establishing,
30 allocating, and levying assessments. Except as otherwise
31 specified in this article, the regulations shall be consistent with
32 the procedures utilized for establishing, allocating, and levying
33 assessments to support maintenance areas established pursuant
34 to Chapter 4.5 (commencing with Section 12878) of Part 6 of
35 Division 6.

36 8867.6. The county in which the assessed lands are located
37 shall collect, on behalf of the board, the amounts certified by the
38 department to be raised pursuant to its levy of assessments under
39 this article.

1 *SEC. 7. Chapter 9 (commencing with Section 9110) is added*
2 *to Part 4 of Division 5 of the Water Code, to read:*

3
4 *CHAPTER 9. REPORTS*

5
6 *Article 1. Definitions*
7

8 *9110. Unless the context requires otherwise, the definitions*
9 *set forth in this article govern the construction of this chapter.*

10 (i) "Fiscal year" has the same meaning as that set forth in
11 Section 13290 of the Government Code.

12 (ii) "Levee flood protection zone" means the area, as
13 determined by the department, that is protected by a project
14 levee, as defined in Section 8725.

15 (iii) "Local agency" means a local agency responsible for the
16 maintenance of a project levee.

17 (iv) "Maintenance" has the same meaning as that set forth in
18 subdivision (f) of Section 12878.

19
20 *Article 2. State Reports*
21

22 *9120. (a) The department shall prepare and may periodically*
23 *update a flood control system status report for the State Plan of*
24 *Flood Control. For the purposes of preparing the report, the*
25 *department shall inspect the project levees and review available*
26 *information to ascertain whether there are evident deficiencies.*

27 *(b) The status report shall include identification and*
28 *description of each facility, an estimate of the risk of levee*
29 *failure, a discussion of the inspection and review undertaken*
30 *pursuant to subdivision (a), and appropriate recommendations*
31 *regarding the levees and future work activities.*

32 *(c) The department shall report deficiencies and*
33 *recommendations to the board and the Department of Finance in*
34 *a timely manner.*

35 *(d) On or before December 31, 2007, the department shall*
36 *advise the Legislature, in writing, as to the department's*
37 *schedule of implementation of this section.*

38 *(e) The department shall submit the report described in*
39 *subdivision (a) to the board for its review and comment.*

1 9121. (a) On or before September 1, 2009, and on or before
2 September 1 of each year thereafter, the department shall
3 provide written notice to each landowner whose property is
4 determined to be entirely or partially within a levee flood
5 protection zone.

6 (b) The notice shall include statements regarding all of the
7 following:

8 (1) The property is located behind a levee.

9 (2) Levees reduce, but do not eliminate the risk of flooding and
10 are subject to catastrophic failure.

11 (3) If available, the level of flood risk as described in the flood
12 control system status report described in Section 9120 and a
13 levee flood protection zone map prepared in accordance with
14 Section 9130.

15 (4) The State of California recommends that property owners
16 in a levee flood protection zone obtain flood insurance, such as
17 the insurance provided by the Federal Emergency Management
18 Agency through the National Flood Insurance Program.

19 (5) Information about purchasing federal flood insurance.

20 (6) The Internet address of the Web site that contains the
21 information required by the flood management report described
22 in Section 9141.

23 (7) Any other information determined by the department to be
24 relevant.

25 (c) A county, with assistance from the department, shall
26 annually provide to the department, by electronic means, lists of
27 names and addresses of property owners in a levee flood
28 protection zone located in that county.

29 (d) Notwithstanding any other provision of the law, the
30 department may enter into contracts with private companies to
31 provide the notices required by this section.

32 9122. The board shall determine the areas benefited by
33 facilities of the State Plan of Flood Control based on information
34 developed by the department.

35 Article 3. Levee Flood Protection Zone Maps

36
37
38 9130. (a) The department shall prepare, update, and
39 maintain maps for levee flood protection zones. The maps shall

1 *include flood depth contours determined by the department if that*
2 *information is available.*

3 *(b) It is the intent of the Legislature that the levee flood*
4 *protection zone maps be widely distributed to appropriate*
5 *governmental agencies, as determined by the department.*

6
7 *Article 4. Local Reports*
8

9 *9140. (a) On or before September 30 of each year, a local*
10 *agency responsible for the operation and maintenance of a*
11 *project levee shall prepare and submit to the department, in a*
12 *format specified by the department, a report of information for*
13 *inclusion in periodic flood management reports prepared by the*
14 *department relating to the project levee. The information*
15 *submitted to the department shall include all of the following:*

16 *(1) Information known to the local agency that is relevant to*
17 *the condition or performance of the project levee.*

18 *(2) Information identifying known conditions that might*
19 *impair or compromise the level of flood protection provided by*
20 *the project levee.*

21 *(3) A summary of the maintenance performed by the local*
22 *agency during the previous fiscal year.*

23 *(4) A statement of work and estimated cost for operation and*
24 *maintenance of the project levee for the current fiscal year, as*
25 *approved by the local agency.*

26 *(5) Any other information relevant to the condition or*
27 *performance of the project levee, as determined by the*
28 *department.*

29 *(b) A local agency described in subdivision (a) that operates*
30 *and maintains a nonproject levee that also benefits land within*
31 *the boundaries of the area benefited by the project levee shall*
32 *include information pursuant to subdivision (a) with regard to*
33 *the nonproject levee.*

34 *(c) A local agency that incurs costs for the maintenance or*
35 *improvement of a project or nonproject levee under the delta*
36 *levee maintenance subventions program established pursuant to*
37 *Part 9 (commencing with Section 12980) of Division 6 may*
38 *submit information submitted to satisfy the requirements of that*
39 *program to meet the requirements of paragraph (3) of*

1 subdivision (a), but may do so only for that reach of the levee
2 included in that program.

3 (d) (1) A local agency responsible for the operation and
4 maintenance of a levee not otherwise subject to this section may
5 voluntarily prepare and submit to the department or the board a
6 flood management report for posting on the Internet Web site of
7 the department or the board.

8 (2) A flood management report submitted pursuant to
9 paragraph (1) shall be made available on the Internet Web site of
10 the board if the local agency is partially or wholly within the
11 geographical boundaries of the board's jurisdiction. Otherwise,
12 the report shall be made available on the Internet Web site of the
13 department.

14 9141. (a) The department shall prepare a report on the
15 project levees operated and maintained by each local agency,
16 using information provided by the local agency pursuant to
17 Section 9140 and information from relevant portions of any of
18 the following documents, as determined by the department:

19 (1) Annual inspection reports on local agency maintenance
20 prepared by the department or the board.

21 (2) The State Plan of Flood Control.

22 (3) The flood control system status report described in Section
23 9120.

24 (4) The schedule for mapping described in Section 8327.

25 (5) Any correspondence, document, or information deemed
26 relevant by the department.

27 (b) The department shall make the flood management report
28 for each local agency available on the Internet Web site of the
29 board and shall provide the report to all of the following entities:

30 (1) The local agency.

31 (2) Any city or county within the local agency's jurisdiction.

32 (3) Any public library located within the local agency's
33 jurisdiction.

34 (c) The report shall be completed on or before December 31,
35 2007, and may be updated as deemed necessary by the
36 department.

37 9142. A local agency responsible for the operation and
38 maintenance of a project levee may propose to the board an
39 upgrade of the project levee if the local agency determines that

1 *the upgrade is appropriate. The local agency may implement that*
2 *upgrade if approved by the board.*

3 *SEC. 8. Section 12585.11 is added to the Water Code, to*
4 *read:*

5 *12585.11. Upon appropriation by the Legislature therefor,*
6 *the department or the board may advance funds to the federal*
7 *government or perform flood control and environmental*
8 *restoration project planning, design, and construction in advance*
9 *of the federal government and seek reimbursement or credit from*
10 *the federal government for the cost of that work determined by*
11 *the federal government to be eligible for reimbursement or*
12 *credit.*

13 *SEC. 9. Section 12585.12 is added to the Water Code, to*
14 *read:*

15 *12585.12. The department or board may participate with the*
16 *federal government or local agencies in the design of*
17 *environmental enhancements associated with a federal flood*
18 *control project and participate in the construction of*
19 *environmental enhancements associated with a federal flood*
20 *control project for which the state has authorized state*
21 *participation. The state shall pay 50 percent of the nonfederal*
22 *share of environmental enhancement.*

23 *SEC. 10. Section 12657 of the Water Code is amended to*
24 *read:*

25 *12657. (a) Except as otherwise provided in Chapter 1*
26 *(commencing with Section 12570) and this chapter, the*
27 *Reclamation Board shall give assurances satisfactory to the*
28 *Secretary of the Army that the local cooperation, required by*
29 *Section 3 of the act of Congress approved December 22, 1944*
30 *(P.L. 534, 78th Congress, Second Session), Section 2 of the act*
31 *of Congress approved August 18, 1941 (P.L. 228, 78th Congress,*
32 *First Session), and Section 103 of the act of Congress approved*
33 *November 17, 1986 (P.L. 99-662, 99th Congress, Second*
34 *Session) will be furnished by the state in connection with the*
35 *flood control projects authorized and adopted in Sections 12648,*
36 *12648.1, 12648.2, 12648.3, 12648.4, 12648.5, 12648.6, 12648.7,*
37 *12649.1, 12650, 12651, 12652, 12654, 12656.5, 12661.2,*
38 *12661.5, 12666, 12667, 12670.2, 12670.7, 12670.10, 12670.14,*
39 *and 12670.20 and on any flood control projects on any stream*
40 *flowing into or in the Sacramento Valley or the San Joaquin*

1 Valley heretofore or hereafter approved and authorized by
2 Congress.

3 (b) Assurances provided pursuant to subdivision (a) shall not
4 be made until the local agency, by binding agreement with the
5 Reclamation Board, has agreed to assume all obligations under
6 Sections 12585 to 12585.5, inclusive.

7 (c) *For a project that increases the level of flood protection,*
8 *assurances provided pursuant to subdivision (a) shall not be*
9 *made until all cities and counties that lie in whole or in part*
10 *within the benefited area of that project have executed an*
11 *agreement with the department or board whereby those cities*
12 *and counties agree to be subject to joint liability and*
13 *contribution when any action related to the project is brought*
14 *against the state or a state agency. This subdivision shall not*
15 *apply for projects where repairs are being made to restore*
16 *previous levels of flood protection associated with specific design*
17 *flows.*

18 SEC. 11. Section 12878 of the Water Code is amended to
19 read:

20 12878. Unless the context otherwise requires, ~~the following~~
21 ~~definitions apply throughout~~ *set forth in this section govern the*
22 *construction of this chapter:*

23 (a) “Department” means Department of Water Resources.

24 (b) “Director” means the Director of Water Resources.

25 (c) “Board” means the ~~State~~ Reclamation Board.

26 (d) Wherever the words “board or department” or “board or
27 director” are used together in this chapter they shall mean *the*
28 board as to any project in the Sacramento or San Joaquin Valleys
29 or on or near the Sacramento River or the San Joaquin River or
30 any of their tributaries, and *the* department or *the* director as to
31 any project in any other part of the state outside of the
32 jurisdiction of the board.

33 (e) “Project” means any project that has been authorized
34 pursuant to Chapter 2 (commencing with Section 12639) or
35 Chapter 4 (commencing with Section 12850) and concerning
36 which assurances have been given to the Secretary of the Army
37 or the Secretary of Agriculture that the state or a political
38 subdivision thereof will operate and maintain the project works
39 in accordance with regulations prescribed by the federal
40 government or any project upon which assurances have been

1 given to the Secretary of the Army and upon which the *United*
2 *States Army Corps of Engineers*, ~~United States Army~~, has
3 performed work pursuant to Section 208 of Public Law 780, 83rd
4 Congress, 2nd Session, approved September 3, 1954.

5 (f) “Maintenance” means work described as maintenance by
6 the federal regulations issued by the Secretary of the Army or the
7 Secretary of Agriculture for any project.

8 (g) “Maintenance area” means described or delineated lands
9 that are found by the board or *the* department to be benefited by
10 the maintenance and operation of a particular unit of a project.

11 (h) “Unit” means any portion of the works of a project
12 designated as a unit by the board or *the* department, other than
13 the works prescribed in Section 8361, or works operated and
14 maintained by the United States.

15 (i) “Land” includes improvements.

16 (j) “Local agency” means and includes all districts or other
17 public agencies responsible for the operation of works of any
18 project under Section 8370, Chapter 2 (commencing with Section
19 12639) or Chapter 4 (commencing with Section 12850) or any
20 other law of this state.

21 (k) “Cost of operation and maintenance” means, for the
22 purposes of maintenance areas established after July 31, 2004, as
23 the result of relinquishment by a local agency pursuant to Section
24 12878.1 only, the cost of all maintenance, as defined in
25 subdivision (f), and shall also include, but is not limited to, ~~all of~~
26 ~~the following costs:~~

27 ~~(1) All costs incurred by the department or the board in the~~
28 ~~formation of the maintenance area under this chapter.~~

29 ~~(2) Any costs, if deemed appropriate by the department, to~~
30 ~~secure insurance covering liability to others for damages arising~~
31 ~~from the maintenance activities of the department or from~~
32 ~~flooding in the maintenance area.~~

33 ~~(3) Any costs of defending any action brought against the~~
34 ~~state, the department, or the board, or any employees of these~~
35 ~~entities, for damages arising from the maintenance activities of~~
36 ~~the department or from flooding in the maintenance area.~~

37 ~~(4) Any costs incurred in the payment of any judgment or~~
38 ~~settlement of an action against the state, the department, or the~~
39 ~~board, or any employees of these entities, for damages arising~~
40 ~~from the formation of the maintenance area or from any~~

~~1 maintenance activities of the department or flooding in the~~
~~2 maintenance area~~ all costs incurred by the department or the
3 board in the formation of the maintenance area other than those
4 costs paid by the local agency pursuant to subdivision (c) of
5 Section 12787.1.

6 (l) “Cost of operation and maintenance” means, for the
7 purposes of all maintenance areas, without regard to the date of
8 formation, the cost of all maintenance, as defined in subdivision
9 (f), and shall also include, but is not limited to, all of the
10 following costs:

11 (1) Any costs of defending any action brought against the
12 state, the department, or the board, or any employees of these
13 entities, for damages arising from the maintenance activities of
14 the department or from flooding in the maintenance area.

15 (2) Any costs incurred in the payment of any judgment or
16 settlement of an action against the state, the department, or the
17 board, or any employees of these entities, for damages arising
18 from the formation of the maintenance area or from any
19 maintenance activities of the department or flooding in the
20 maintenance area.

21 SEC. 12. Section 12878.1 of the Water Code is amended to
22 read:

23 12878.1. (a) Whenever the board or the department finds
24 that a unit of a project or any portion of a unit of a project is not
25 being operated or maintained in accordance with the standards
26 established by federal regulations or whenever the governing
27 body of a local agency obligated to operate and maintain that unit
28 by resolution duly adopted and filed with the department declares
29 that it no longer desires to operate and maintain the unit, the
30 department shall prepare a statement to that effect specifying in
31 detail the particular items of work necessary to be done in order
32 to comply with the standards of the federal government together
33 with an estimate of the cost thereof for the current fiscal year and
34 for the ensuing fiscal year.

35 (b) Subject to subdivision (c), but notwithstanding any other
36 provision of law, the board or the department is not required to
37 proceed in accordance with subdivision (a) or with the formation
38 of a maintenance area under this chapter if neither the board nor
39 the department has given the nonfederal assurances to the United
40 States required for the project. If neither the board nor the

1 department has given the nonfederal assurances to the United
2 States required for the project, the board or department may elect
3 to proceed with the formation if it determines that the formation
4 of a maintenance area is in the best interest of the state.

5 ~~(e) (1) Subdivision (b) does not apply to any project for which~~
6 ~~an application for the formation of a maintenance area under this~~
7 ~~chapter has been submitted to the department by a local agency~~
8 ~~on or before July 1, 2003.~~

9 ~~(2) Subject to paragraph (3), the department or the board shall~~
10 ~~proceed in accordance with subdivision (a) and with the~~
11 ~~formation of a maintenance area in accordance with this chapter~~
12 ~~for any project described in paragraph (1).~~

13 ~~(3) Before the department or the board forms a maintenance~~
14 ~~area pursuant to this subdivision, the local agency shall enter into~~
15 ~~an agreement with the department pursuant to which the local~~
16 ~~agency agrees to indemnify and hold and save harmless the state,~~
17 ~~its officers, agents, and employees for any and all liability for~~
18 ~~damages that may arise out of the planning, design, construction,~~
19 ~~operation, maintenance, repair, or rehabilitation of the project, or~~
20 ~~the dissolution or modification of the maintenance area formed~~
21 ~~pursuant to this subdivision.~~

22 *(c) If a local agency requests the department to form a*
23 *maintenance area by resolution duly adopted and filed with the*
24 *department, the department shall estimate the cost of preparing*
25 *the statement of necessary work and the cost thereof, and all*
26 *other applicable costs incurred by the department before the*
27 *formation of the maintenance area. The department shall submit*
28 *that estimate to the local agency. The department shall not*
29 *perform any additional work to form that maintenance area until*
30 *the local agency pays the department the amount estimated*
31 *pursuant to this subdivision.*

32 *SEC. 13. Section 12878.21 of the Water Code is amended to*
33 *read:*

34 12878.21. Upon the formation of a maintenance area, the
35 department shall thereafter operate and maintain the unit until
36 such time as the maintenance area may be dissolved pursuant to
37 ~~the provisions of this chapter.~~ *If the board or the department*
38 *forms a maintenance area for a portion of a unit of a project, any*
39 *remaining portion of the unit of a project not included in the*

1 *maintenance area shall remain the responsibility of the local*
2 *agency obligated to operate and maintain that unit.*

3 *SEC. 14. Section 12878.22 of the Water Code is amended to*
4 *read:*

5 12878.22. (a) Any local agency obligated by Chapters 2
6 (commencing ~~at~~ with Section 12639) and Chapter 4
7 (commencing ~~at~~ with Section 12850) ~~of this part~~, or by Section
8 8370 ~~of this code~~, or by any other law of the State, to operate and
9 maintain any unit, any part of whose territory has been
10 incorporated in a maintenance area, or any local agency desirous
11 of assuming the obligation of operating and maintaining any unit
12 concerning which unit a maintenance area has been formed
13 pursuant to this article, may petition the board or *the* department
14 to dissolve ~~such the~~ maintenance area, and the board or *the*
15 department, after a hearing, may dissolve ~~such the~~ maintenance
16 area if in its discretion it finds it to be in the best interest of the
17 State *state* to do so.

18 (b) *The board or the department may not dissolve a*
19 *maintenance area unless the local agency agree to jointly and*
20 *severally hold and save the state and the United States free from*
21 *damages pursuant to an agreement satisfactory to the*
22 *department and the Attorney General.*

23 (c) *For the purposes of this section, for areas within the*
24 *jurisdiction of the board, the board shall determine the area*
25 *benefited by a project pursuant to Section 9122. For all other*
26 *areas, the department shall determine the area benefited by a*
27 *project.*

28 *SEC. 15. Section 12878.23 of the Water Code is amended to*
29 *read:*

30 12878.23. (a) The boundaries of any established
31 maintenance area or zones ~~therein~~ *within the maintenance area*,
32 the description of works to be maintained ~~therein~~ *within the*
33 *maintenance area*, and the determination of relative benefits
34 within any zone may be modified by the board or *the* department
35 upon its own initiative or upon petition by the governing body of
36 the local agency formerly responsible for the operation and
37 maintenance of the unit or by the board of supervisors of the
38 county in which all or a portion of the unit is located.

39 (b) *The board or the department may consolidate maintenance*
40 *areas that share a common boundary.*

1 *SEC. 16. If the Commission on State Mandates determines*
2 *that this act contains costs mandated by the state, reimbursement*
3 *to local agencies and school districts for those costs shall be*
4 *made pursuant to Part 7 (commencing with Section 17500) of*
5 *Division 4 of Title 2 of the Government Code.*

6
7
8 **All matter omitted in this version of the bill**
9 **appears in the bill as amended in Senate,**
10 **September 8, 2005 (JR11)**
11